

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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JENNY PETERS,

Plaintiff,

Case No. 21-cv-78-pp

v.

COMMISSIONER OF THE  
SOCIAL SECURITY ADMINISTRATION,

Defendant.

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**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED  
WITHOUT PREPAYING THE FILING FEE (DKT. NO. 2)**

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The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying her claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. She also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

To allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that she does not have the ability to pay the filing fee. The plaintiff's complaint indicates that she is not employed, she is married, and she has a 13-year-old daughter and a 15-year-old daughter that she is responsible for supporting. Dkt. No. 2 at 1. The plaintiff's spouse is employed and earns \$2,536 per month. *Id.* at 2. The plaintiff lists \$1,888.28 in monthly expenses (\$75 rent—the plaintiff says she's

“living with family right now”—\$313.28 car payment, \$1,500 other household expenses). Id. at 2-3. The plaintiff owns a 2011 Dodge Journey worth approximately \$2,000, she does not own her home or any other property of value, and she has \$41 in cash on hand or in a checking or savings account. Id. at 3-4. The plaintiff states, “Right now I’m living with family members, trying hard to find my own place and living off one income is really hard and we are trying just to make due pay check to pay check.” Id. at 4. The plaintiff has demonstrated that she cannot pay the \$350 filing fee and \$52 administrative fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Nietzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner’s final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

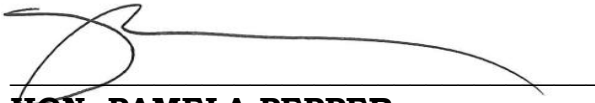
The plaintiff has filed this district’s form Social Security complaint. Dkt. No. 1. The complaint indicates that she is seeking review of a decision by the Commissioner of Social Security to deny her benefits, that she was disabled during the time period included in the case, and that she believes the unfavorable conclusions and findings of fact by the Commissioner when

denying benefits are not supported by substantial evidence and/or are contrary to law and regulation. Id. at 2-3. In addition, the plaintiff states, “I feel that my medical has not improve and I don’t feel that it’s going to make a difference in any improvement since it’s been 3 years in the making. I have tried everything my doctor has recommended, and it’s only as far as I can go.” Id. at 3. At this early stage in the case, and based on the information in the plaintiff’s complaint, the court concludes that there may be a basis in law or in fact for the plaintiff’s appeal of the Commissioner’s decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff’s motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

Dated in Milwaukee, Wisconsin this 21st day of January, 2021.

**BY THE COURT:**



**HON. PAMELA PEPPER**  
**Chief United States District Judge**